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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,825	09/29/2003	Kevin P. Wright	03AB139/ALBRP327US	2201
7590 Susan M. Donahue Rockwell Automation 704-P, IP Department 1201 South 2nd Street Milwaukee, WI 53204			EXAMINER KASENGE, CHARLES R	
			ART UNIT 2125	PAPER NUMBER
			MAIL DATE 05/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/673,825

Applicant(s)

WRIGHT ET AL.

Examiner

Charles R. Kasenge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks filed 3/15/07, with respect to the rejection(s) of claim(s) 1-29 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ross et al. U.S. Patent 6,757,590.

Claim Objections

2. Claim 1 is objected to because of the following informalities: It appears that the "optimum level" and the "optimum limit" are the same while using different terms. If that is the case only one term is needed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: how the total system demand relates to loads. The

Examiner recommends adding a wherein clause for the total system demand or adding an earlier limitation that defines the total system demand.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 7-10, 12-25 and 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross et al. U.S. Patent 6,757,590. Regarding claims 1, 9, 19, 24, 25 and 29, Ross discloses a decentralized energy control and management system, comprising: a plurality of loads associated with a system, wherein at least one load is a member of a class (col. 4, lines 2-8; col. 10, lines 47-53; col. 11, lines 3-7); all members of a class are connected to an energy supply if connecting the entire class would not bring total system demand above an optimum level (col. 10 and 11, lines 54-3); and a plurality of networked load controllers associated with respective loads (col. 4, lines 8-14), wherein the load controllers cooperate to determine which load should be shed when the total system demand exceeds an optimum limit (col. 10 and 11, lines 54-24).

Regarding claims 2-4 7, 8, 12, 20, 21 and 23, Ross discloses the system of claim 1, wherein loads are shed based on a priority associated with each load (col. 10 and 11, lines 54-24). Ross discloses the system of claim 2, wherein priority is based at least in part on load function and context (col. 10 and 11, lines 54-24). Ross discloses the system of claim 1, wherein

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the load controllers communicate over a local area network (LAN) (Fig. 1). Ross discloses the system of claim 1, further comprising a meter to measure parameters associated with energy consumed by the system (col. 10, lines 54-59). Ross discloses the system of claim 7, wherein the measurements are transferred to and stored by a host computer (col. 10, lines 54-59; col. 6, lines 44-55).

Regarding claims 10, 13, 14, 22, 27 and 28, Ross discloses the system of claim 9, further comprising a power supply (col. 2, lines 15-25). Ross discloses the system of claim 12, wherein the optimization algorithm includes parameters associated with at least one business concern (col. 4, lines 2-8). Ross implicitly discloses the system of claim 13, wherein the optimization algorithm includes parameters associated with the health of the machine (col. 10 and 11, lines 54-24).

Regarding claims 15-18, Ross discloses the system of claim 9, wherein the optimization algorithm employs intelligent agents to act as proxies for the actual machines when determining the optimum load for each machine (col. 10 and 11, lines 54-24). Ross discloses the system of claim 9, wherein the optimization algorithm utilizes a belief network (col. 10 and 11, lines 54-24). Ross implicitly discloses the system of claim 9, wherein at least a subset of the machines are located physically remote from one another (col. 4, lines 2-8). Ross discloses the system of claim 9, wherein the load controllers also determine which previously shed loads to reconnect (col. 10 and 11, lines 54-24).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. U.S. Patent 6,757,590. Ross does not explicitly disclose the load controllers communicating wirelessly or over a WAN. However it is commonly known in the art that one can convert a traditional wired connection to a wireless connection that uses a WAN.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use wireless technology over a WAN to communicate with the load controllers. One of ordinary skill in the art would have been motivated to do this since it is well known in the art that wireless allows easier data transmission from remote locations; allowing the controllers to be placed in various remote locations while being connected to the network more easily.

10. Claims 11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross as applied to the claims above, and further in view of McKay et al. U.S. Patent 6,345,501. Ross does not specifically disclose using a variable speed motor as a load. McKay discloses a variable speed motor such that load shedding with respect to the motor corresponds to reducing the power to the motor (col. 1, lines 3-6 and 25-36).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have a variable speed motor as a load for Ross' energy management system.

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One of ordinary skill in the art would have been motivated to do this since the loads for Ross' system can be any load (col. 4, lines 2-8).

Allowable Subject Matter

11. Claim 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
12. Claim 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

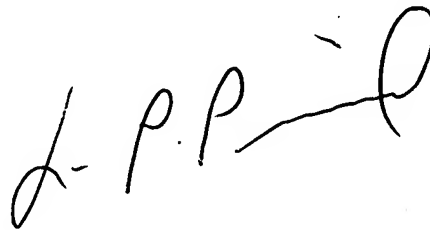
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Kasenge whose telephone number is 571 272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CK
May 16, 2007

A handwritten signature in black ink, appearing to read 'L. P. Picard', with a stylized flourish at the end.

**LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**